

Expedited Bill No. 30-09
Concerning: Personnel – Retirement –
Guaranteed Retirement Income Plan –
Retirement Savings Plan
Revised: September 16, 2009 Draft
No. 4
Introduced: July 28, 2009
Enacted: September 22, 2009
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) permit certain non-represented public safety employees to participate in the Guaranteed Retirement Income Plan;
- (2) eliminate the distinction between disability benefits for highly compensated employees and non-highly compensated employees under the Retirement Savings Plan;
- (3) establish default beneficiaries for participants in the Retirement Savings Plan; and
- (4) generally amend the retirement laws.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-35, 33-37, 33-39, 33-40, 33-43, 33-52, 33-113, 33-115, 33-119, 33-120, 33-128, 33-131

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 33-35, 33-37, 33-39, 33-40, 33-43, 33-52, 33-113, 33-115, 33-119, 33-120, 33-128, 33-131 are amended as follows:

33-35. Definitions.

In this Article, the following words and phrases have the following meanings:

* * *

Public safety employee: An employee who is a:

- (1) sworn officer of the [[Montgomery County]] Police Department;
- (2) paid firefighter, [[a]] paid fire officer, or [[a]] paid rescue service worker of the Montgomery County [[Department of]] Fire and Rescue [[Services]] Service;
- (3) sworn [[Montgomery County]] deputy sheriff;
- (4) [[Montgomery County]] correctional officer; or
- (5) [[Montgomery]] County employee who provides services to a correctional facility and designated as a public safety employee by the Chief Administrative Officer.

* * *

33-37. Membership requirements and membership groups.

* * *

- (f) *Membership groups and eligibility.* Any full-time or part-time employee is eligible for membership in the appropriate membership group outlined below if the employee meets all of the requirements for the group:

* * *

- (5) Group F: sworn police officers.
 - (A) A group F member who has reached elective early retirement date may retain membership in group F if the

member is transferred from the position that qualified the member for group F membership.

(B) A group F member who is temporarily transferred from the position that qualified the member for group F membership may retain membership in group F as long as the temporary transfer from the group F position does not exceed 3 years.

(C) Notwithstanding the foregoing provisions in group F, an employee who is eligible for membership in group F must participate in the retirement savings plan under Article VIII or the guaranteed retirement income plan if the employee:

(i) [(a)] begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2));

(ii) [(b)] is not represented by an employee organization; and

(iii) [(c)] does not occupy a bargaining unit position.]; or]

(D) An employee who is eligible for membership in group F must participate in the retirement savings plan under Article VIII if the employee:

(i) [(ii) (a)] begins County service on or after October 1, 1994; and

(ii) [(b)] is subject to the terms of a collective bargaining agreement between the County and an

employee organization that requires the employee to participate in the retirement savings plan.

[D] (E) * * *

(6) Group G: Any paid firefighter, paid fire officer, and paid rescue service personnel. Any group G member who has reached normal retirement may retain membership in group G if the member transfers from the position which qualified the member for group G. Any group G member who is temporarily transferred from the position which qualified the member for Group G may retain membership in group G as long as the temporary transfer from the group G position does not exceed 3 years.

(A) Notwithstanding the foregoing provisions in group G, any employee who is eligible for membership in group G must participate in the retirement savings plan under Article VIII if the employee:

[(A) (i) begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2));

(ii) is not represented by an employee organization; and

(iii) does not occupy a bargaining unit position; or

(B)] (i) begins County service on or after October 1, 1994; and

(ii) is subject to the terms of a collective bargaining agreement between the County and an employee

organization which requires the employee to participate in the retirement savings plan.

(B) An employee who is eligible for membership in group G must participate in the retirement savings plan under Article VIII or the guaranteed retirement income plan if:

(i) the employee begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2)); [[and]]

(ii) is not represented by an employee organization; and

(iii) does not occupy a bargaining unit position.

* * *

(k) Election to join the guaranteed retirement income plan.

* * *

(3) [A] An eligible full-time employee hired on or after July 1, 2009 and a part-time or temporary employee who becomes full-time on or after July 1, 2009 who does not participate in the retirement savings plan [and who is not a public safety employee, as defined in Section 33-113(o)], may elect to participate in the guaranteed retirement income plan. An eligible employee must make an irrevocable election during the first 150 days of full-time employment. If an eligible employee elects to participate, participation must begin on the first [payroll] pay period after an employee has completed 180 days of full-time employment. An employee who does not participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first

[payroll] pay period after the employee completes 180 days of full-time employment.

(4) [A] An eligible part-time or temporary employee hired on or after October 1, 1994 who does not participate in the retirement savings plan [, and who is not a public safety employee as defined in Section 33-113(o),] may make a one time irrevocable election to participate in the guaranteed retirement income plan after the employee completes at least 150 days of employment. Participation must begin on the first full [payroll] pay period beginning 30 days after the employee makes the election.

(5) An eligible full-time or part-time public safety employee hired on or after October 1, 1994 and before January 1, 2009 who participates in the retirement savings plan may make a one time irrevocable election to terminate participation in the retirement savings plan and participate in the guaranteed retirement income plan, effective the first full pay period after [[October 1,]] December 31, 2009. An employee must make this election between [[June 30, 2009 and September 1, 2009]] October 1, 2009 and December 1, 2009. An employee who makes this election must have his or her retirement savings plan account balance transferred to the guaranteed retirement income plan. The amount transferred into the guaranteed retirement income plan must become the participant's initial guaranteed retirement income plan account balance. An employee who does not make this election must continue to participate in the retirement savings plan.

* * *

33-39. Member Contributions and credited interest.

(a) Member contributions. Each member of the retirement system must contribute a portion of the member's regular earnings through regular payroll deductions.

* * *

(4) Member contributions to the guaranteed retirement income plan.

(A) A non-public safety employee member in the guaranteed retirement income plan must contribute 4% of regular earnings less than or equal to the Social Security wage base and 8% of regular earnings that exceed the Social Security wage base.

(B) A public safety employee member in the guaranteed retirement income plan must contribute 3% of regular earnings less than or equal to the Social Security wage base and 6% of regular earnings that exceed the Social Security wage base.

[(B)] (C) * * *

[(C)] (D) * * *

(b) Credited interest.

* * *

(5) A member of the guaranteed retirement income plan must receive credited interest at [a] an annual rate of 7.25% on the member's contributions in the member's guaranteed retirement income plan account. If the annual 7.25% interest rate does not comply with applicable law, the third segment rate described in Internal Revenue Code Section 430(h)(2)(G) or any successor

provision must apply. Interest must be credited to a member's guaranteed retirement income plan account balance on a monthly basis as of the last day of the month.

* * *

33-40. Employer Contributions.

* * *

(e) Guaranteed retirement income plan.

(1) Each pay period, the County must credit to each non-public safety member's guaranteed retirement income plan account an amount equal to 8% of the member's regular earnings. Interest must be credited at [a] an annual rate of 7.25% on the County contribution credits. If the annual 7.25% interest rate does not comply with applicable law, the third segment rate described in Internal Revenue Code Section 430(h)(2)(G) or any successor provision must apply. Interest must be credited to a member's guaranteed retirement income plan account balance on a monthly basis as of the last day of the month.

(2) Each pay period, the County must credit to each public safety member's guaranteed retirement income plan account an amount equal to 10% of the member's regular earnings. Interest must be credited at an annual rate of 7.25% on the County contribution credits. If the annual 7.25% interest rate does not comply with applicable law, the third segment rate described in Internal Revenue Code Section 430(h)(2)(G) or any successor provision must apply. Interest must be credited to a member's guaranteed retirement income plan account balance on a monthly basis as of the last day of the month.

participant would have received for the year if the participant were paid for the full year at the rate of compensation paid in the pay period immediately before the participant became disabled.

[(4)](D) The participant must not receive a distribution during any period in which the participant receives a County contribution credit.

[(5)](E) The participant must not make member contributions under Section 33-39 during the disability participation.

(2) Public Safety Employees. If a public safety employee participant incurs a disability before retirement or other separation from service which, in the opinion of a physician selected or approved by the Chief Administrative Officer, renders the participant unable to perform duties satisfactorily for the employment the participant held with the County before the disability, the participant's employment and participation in the guaranteed retirement income plan must be terminated and deemed a disability retirement under the following rules:

(A) All amounts credited to the participant's guaranteed retirement income plan account, including County contributions, are 100% vested regardless of the participant's years of credited service.

(B) The Chief Administrative Officer must determine the date on which a disability retirement is effective. After a participant submits a properly completed distribution form, the Chief Administrative Officer must distribute

the value of the former participant's account balance to
the former participant under this Section.

* * *

33-52. Payment of benefits.

* * *

(b) Discontinuance of pension payments. A member must not receive pension payments while serving in an appointed or elected County office that receives any compensation paid by the County. A member appointed to a full-time County position must become a member of the retirement system or the Retirement Savings Plan under Sections 33-37 and 33-115 and make member contributions until later separation under Article III or Article VIII. The retirement benefit of an employee who resumes membership in the optional or integrated plan must be recalculated when the employee later separates from service. The retirement benefit under the integrated or optional plans of Article III of an employee who becomes a member of the Retirement Savings Plan or the guaranteed retirement income plan must resume when the employee later separates from service.

* * *

33-113. Definitions.

* * *

(o) Public safety employee means any employee who is a:

- (1) [a] sworn officer of the [[Montgomery County]] Police Department;
- (2) [a] paid firefighter, [[a]] paid fire officer, or [[a]] paid rescue service worker of the Montgomery County [[Department of]] Fire and Rescue [[Services]] Service;

- (3) [a] sworn [[Montgomery County]] deputy sheriff;
- (4) [a] [[Montgomery County]] correctional officer; or
- (5) [a] [[Montgomery]] County [correctional staff member if] employee who provides services to a correctional facility and designated as a public safety employee by the Chief Administrative Officer.

* * *

33-115. Participant requirements and participant groups.

(a) *Participant Requirements.*

* * *

- (7) Election to participate in the guaranteed retirement income plan.
- (A) An eligible full-time employee hired on or after July 1, 2009 and a part-time and temporary employee who becomes full-time after July 1, 2009[, who is not a public safety employee,] may participate in the guaranteed retirement income plan. An eligible employee must make a one time irrevocable election during the first 150 days of employment. If an eligible employee elects to participate, participation must begin on the first [payroll] pay period after an employee has completed 180 days of full-time employment. A full-time employee who does not elect to participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first [payroll] pay period after the employee has completed 180 days of full-time employment.

(B) An eligible part-time or temporary employee hired on or after October 1, 1994 who is not a participant in the retirement savings plan[, and who is not a public safety employee,] may make a one time irrevocable election to participate in the guaranteed retirement income plan any time after the employee has completed 150 days of employment.

(b) *Participants groups and eligibility.*

* * *

(2) Group II.

(A) Except as provided in the last sentence of Section 33-37(e)(2), [any] a full-time or career part-time employee must participate in the retirement savings plan if the employee begins, or returns to, County service on or after October 1, 1994; and

[(i) (a) is not represented by an employee organization;

(b) does not occupy a bargaining unit position; and

(c) is a public safety employee; or]

(i)[(ii)(a)] is a public safety employee; and

(ii)[(b)] is subject to the terms of a collective bargaining agreement between the County and an employee organization which requires the employee to participate in the retirement savings plan.

(B) A member of the Police Bargaining Unit may transfer to Group II of the retirement savings plan if the employee

has accumulated enough credited service to obtain the maximum retirement benefit under the optional or integrated plan.

(C) Except as provided in the last sentence of Section 33-37(e)(2), a full-time or career part-time employee must participate in the retirement savings plan or the guaranteed retirement income plan if the employee begins, or returns to, County service on or after October 1, 1994; and

- (i) is not represented by an employee organization;
- (ii) does not occupy a bargaining unit position; and
- (iii) is a public safety employee.

(c) *Transfers.*

* * *

(4) Transfer to the guaranteed retirement income plan.

* * *

(C) A full-time or part-time employee hired on or after October 1, 1994 and before January 1, 2009 who participates in the retirement savings plan, and who is a public safety employee not represented by an employee organization and does not [[occupying]] occupy a bargaining unit position, may make a one-time irrevocable election to terminate participation in the retirement savings plan and participate in the guaranteed retirement income plan effective the first full pay period after [[October 1,]] December 31, 2009. An employee must make this election between [[June 30, 2009 and

September 1, 2009]] October 1, 2009 and December 1, 2009. An employee who elects to terminate participation in the retirement savings plan must have his or her account balances transferred to the guaranteed retirement income plan. An employee who does not make this election must continue to participate in the retirement savings plan.

33-119. Credited service.

(a) A participant's credited service is the total County service the participant rendered under the Retirement Savings Plan, the optional retirement plan, [[and]] the integrated plan, and the guaranteed retirement income plan. A participant must receive credited service for any period when the participant was a part-time employee contributing to an employer-supported savings program provided by a participating agency. An employee hired before July 1, 2009 must receive 1 year of credited service for each year of County service. Each year of County service ends on the anniversary of the date the participant starting working for the County. An employee hired on or after July 1, 2009 must receive one year of credited service for each year of participation in a County retirement plan. A person who transferred to the Retirement Savings Plan under Section 115(a)(3) or (4) must receive credit for County service for creditable State service earned as a State employee of the County Department of Social Services. A person who does not transfer to the Retirement Savings Plan under Section 115(a)(3) must not receive credit for County service for this State service.

* * *

33-120. Distribution of Benefit.

* * *

(b) *Disability Benefits.*

(1) Public Safety Employees. If a participant who is a public safety employee incurs a disability before retirement or other separation from service which, in the opinion of a physician selected or approved by the Chief Administrative Officer, renders the participant unable to perform duties satisfactorily for the employment the participant held with the County before the disability, the participant's employment and participation in the retirement savings plan must be terminated and deemed a disability retirement[.] under the following rules:

(A) [In the event of a public safety participant's disability retirement, all] All amounts credited to the participant's retirement savings plan account, including County contributions, [account] are 100% vested regardless of the participant's years of credited service.

(B) The Chief Administrative Officer must determine the date on which a disability retirement is effective. After the participant submits a properly completed distribution form, [The] the Chief Administrative Officer must distribute the value of the former participant's account balances to the former participant under this Section.

[(2) Highly compensated, non-public safety employees. If a participant who is a non- public safety employee and who is a highly compensated employee under the Internal Revenue Code incurs a disability before retirement or other separation from

service which, in the opinion of a physician selected or approved by the Chief Administrative Officer, renders the participant unable to perform duties satisfactorily for the employment the participant held with the County before the disability, the participant's employment and participation in the retirement savings plan must be terminated and deemed a disability retirement.]

[(A) In the event of a highly compensated, non-public safety participant's disability retirement, all amounts credited to the County contributions account are 100% vested regardless of the participant's years of credited service.]

[(B) The Chief Administrative Officer must determine the date on which a disability retirement is effective. The Chief Administrative Officer must distribute the value of the former participant's account balances to the former participant under this Section.]

[(3)] (2) [Non-highly compensated, non-public] Non-public safety employees. If a participant who is a non-public safety employee [and who is not a highly compensated employee under the Internal Revenue Code] incurs a disability before retirement or other separation from service which makes the participant unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, the disabled participant must remain a

participant in the retirement savings plan under the following rules:

- (A) All amounts credited to the participant's retirement savings account, including County contributions, [account] are 100% vested regardless of the participant's years of credited service.
- (B) The participant must remain a participant in the retirement savings plan under this Section until the participant dies, reaches his or her normal retirement date, or recovers from the disability.
- (C) In determining the amount of the County contribution under Section 33-117, the participant's regular earnings means the regular earnings the participant would have received for the year if the participant was paid for the full year at the rate of compensation paid in the pay period immediately before the participant became disabled.
- (D) The participant must not receive a distribution during any period in which the participant receives a County contribution.
- (E) The participant must not make participant contributions under Section 33-116 during the period of disability participation in the retirement savings plan.

(c) *Death Benefits.*

* * *

- (3) A participant may name a primary beneficiary or beneficiaries and contingent beneficiary or beneficiaries on a designation of

beneficiaries form filed with the Office of Human Resources.
If a participant names 2 or more persons as beneficiaries, the
persons are considered co-beneficiaries and share the benefit
equally unless the participant specifies otherwise on the
designation of beneficiaries form. A participant may change
any named beneficiary by completing a new designation of
beneficiaries form. The consent of the beneficiary or
beneficiaries is not required to name or change a beneficiary.
The designation is effective when the participant signs the form
even if the participant is not [[living]] alive when the Office
receives the request, but without prejudice for any payments
made before the Office received the request.

(4) If a participant dies without designating a surviving beneficiary
or the designation is not enforceable under subsection (5), the
surviving spouse or domestic partner (or if there is no surviving
spouse or domestic partner, each surviving child, sharing
equally with any other surviving child) is the designated
beneficiary. If no spouse, domestic partner, or child survives a
participant who left no enforceable beneficiary designation, the
participant's estate is the designated beneficiary.

(5) For purposes of this Section, a beneficiary designation is not
enforceable if:

(A) the designated beneficiary:

(i) predeceases the member;

(ii) disclaims the benefit; or

(iii) is not an identifiable person; or

(B) the designation is legally void for any reason.

* * *

33-128. Definitions.

* * *

(q) Public safety employee means any employee who is a:

- (1) sworn, ranking officer of the [[Montgomery County]] Police Department;
- (2) paid firefighter, paid fire officer, or paid rescue service employee of the Montgomery County [[Department of]] Fire and Rescue [[Services]] Service;
- (3) sworn deputy sheriff;
- (4) [[Montgomery County]] correctional officer; or
- (5) [[Montgomery]] County employee [correctional facility staff member, if] who provides services to a correctional facility and designated as a public safety employee by the Chief Administrative Officer.

* * *

33-131. Amount of benefits.

* * *

(b) Non-service-connected disability. The annual amount of the non-service-connected disability benefit payment equals 2 percent of the employee's final earnings, multiplied by the number of years of credited service earned under Section 33-41 or Section 33-119. However the benefit must be at least 30 percent of the employee's final earnings, but no more than 60 percent of the employee's final earnings, less any reductions provided in Section 33-134.

* * *

Sec. 2. Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:

Philip M. Andrews, President, County Council	Date
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Approved:

Isiah Leggett, County Executive	Date
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This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council	Date
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